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## Custody Fights: A Triptych

Martha L. Deed  
*University at Buffalo*

Millie Niss

Anonymous

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# Custody Fights: A Triptych

Assembled by  
Martha L. Deed, Ph.D.

## I. Courtroom Lawyer

by a child, age 8



## II. In the Best Interests of the Child

by Martha L. Deed \*

My father doesn't allow me to speak English anymore. He says I'm French now. But when I think of my American life, I prefer to speak English.

My name is Anna and I'm eleven years old. I live in Paris with my father. He is still asleep when I leave our apartment early in the morning on my walk to the Seine. I love to walk through the ancient streets of the Latin Quarter where we live. Even when it rains, the streets are crowded with people. And when the sun shines, rare as that is, it paints the roofs of Paris a golden yellow. And then I am happy.

But every day, whether I am in school, or out for a walk, or watching t.v., even eating, I think of my mother, still in New York, and I almost cry.

It is very sad. *Je suis toute seule, tout le temps.* I'm always alone, *meme avec mes amis*, even with my friends.

And it's my fault I lost her.

I want to tell this story the way I know it, because when it comes to divorce, adults always assume they know what it's like for a child, but they don't. Adults only talk about good divorces, the kind where everybody is so nice you can't even understand what happened. But the kids I know have had bad divorces. Like me. My parents got separated when I was three, and my life is still messed up. That's what I call a normally bad divorce.

First they say: "Leave it to us. This isn't

your problem." Then they don't settle it, and it IS my problem, especially if it's about visitation or something like that.

After they've had a big fight and proven that THEY can't settle it, right when it all looks totally impossible, they ask ME. I don't want to make one of them mad, so I say, "Don't ask me. I'm just an innocent child." And whoever I say that to just gets angry anyway.

"If you were innocent, you wouldn't know enough to say so," says my mother. "This is a bunch of crap!" says my father. "Just tell the social worker what I told you to say. And for God's sake, don't tell her I said so or we'll never be done with this."

You can't do what either of them says, not if you want any peace in your life. The last time I did what my father said, he made a court fight about it that took more than a year to settle. He told me my mother would get into trouble if she moved out of the city and I could help. All I had to do was say I didn't want to move, and she wouldn't.

But it wouldn't be enough to say it to my mother: I should tell a judge.

I was seven years old at the time, so what did I know? I said it to a judge.

And after that all hell broke loose. (Excuse me for saying "hell," but after you hear what happened, you will agree with me that it is the truth.) The next thing I knew, my father had sued my mother because of what I said to the judge. When my mother got the Complaint (that's the legal

\* Martha L. Deed, Ph.D., is an Assistant Professor of Law at the State University of New York, School of Law and past-president, Clinical Division, New York State Psychological Association. Publications include peer-reviewed professional papers and presentations along with freelance credits.

term) and she saw she was being sued because of what I said, she got very ANGRY. Then she was crying all the time because of the suit.

I was pretty angry myself. I told my father he had tricked me. He had said I could help my mother NOT to have trouble and later he had used my words to MAKE trouble.

I told him to stop the suit.

And he said NO. Then HE got mad and told me I better keep my mouth shut. And THEN he told me I would have to talk with a judge again and the whole thing would be decided on MY words. He told me this is called "In the best interests of the child."

That's unfair! He said he didn't want my mother to move and she said she had to. She listed so many reasons my head hurt, and I couldn't remember them all. But they sounded like good reasons while she was saying them.

But my father said, "I'll never see you again in your life if you move." He got out a huge map, as big as his needlepoint rug, and showed me where New York is and where Buffalo is.

"I'm scared," I said. "I don't know if moving is right or not, but the fight is worse."

Then he said, "Those aren't your words. That's you mother speaking."

"Whenever you don't like what I say, you say it's my mother," I said. "That makes me ANGRY. I think it's unfair."

"Now you're getting emotional like your mother," he said. "And impolite."

You can't win.

After I spoke with the social worker at the court a few times, we moved. The suit cost a lot of money. My mother said you could buy two excellent cars with the money she had paid to move.

"What's the point of a divorce if you keep fighting with my mother?" I asked my father.

"I have to teach her a lesson," he said. "She can't always get her own way."

I understand why my parents got their divorce, even though it ruined my life. Even when I was little, I knew she needed one.

I remember the fights. One day, I hid in the front closet with the coats, but my father heard me. I made the mistake of crying. You should never cry in the middle of a fight.

He left after that. And then he came back. There were more fights. One day, while he was at the bank, we packed one suitcase and went to a neighbor.

It was a three-day holiday.

I lost my clothes and toys in the divorce and our Christmas decorations my mother had collected since her college. We couldn't get my stuff until the lawyers freed it. By then, my clothes were too small. It was one of the problems in the divorce.

He never did let us have the decorations. Then he made me put them on his tree. I hid some in my pockets and took them back to my mother's house. She cried.

He didn't miss them. They didn't mean anything to him.

I couldn't remember this for a long time, but when I was older, I was mad at my mother all the time and she kept asking, "Why?"

And she kept getting mad at me too, because I wouldn't use silverware. One day, as I was eating chicken noodle soup with my fingers, picking out the noodles one at a time, she said, "That's it!" She put my green chair in the bathtub and gave me my food there. And that's when I remembered.

"Why did you let him back in our house?"

And she explained to me that if you are married, even if you are getting a divorce, you can't make the other person leave unless he hurts you badly enough to get a paper saying he has to stay away. It's called an Order of Protection from the judge. So she had to let him back when he wanted to come back.

After that, I wasn't mad at her anymore, but it makes me mad what happened to me.

My father hates my mother. He can't have a girlfriend because my mother ruined him for other women. My mother got a boyfriend when I was six. That's when my father explained to me how she ruined him, but he didn't ruin her or she wouldn't have a boyfriend.

He said I am the only one he has so I should stay with him. He told me my life would be a lot better with him. He could send me to a good school and make sure I have nicer clothes and more treats. He said my mother is selfish for not giving me those opportunities by giving me to him.

I told her about the school offer, because my school really was bad. My parents agreed on that point.

"We'll find a way to get you a good school," she said.

Like moving, as it turned out.

The problem is that when I'm at my mother's house, my father hates my mother more than he loves me. That's why he can't give me anything there. But when I'm at his house, he loves me more than he hates my mother, so he can give me things.

My mother loves me in both houses. So it's like arithmetic. I can have my mother's and my father's love in my father's house, but when I'm with him, I have to forget I have a mother, or he gets mad.

When he gets mad, I talk to him until he gets calm again. He needs me for that. I can always make him happy when I am with him. Even though he is mean to my mother sometimes, I still love him. He isn't mean to me.

He needs me more than my mother does.

After the move, I tried very hard not to get caught in tricks again. It didn't help.

One of the worst tricks he played was about the computer. My father was wrong about that, and I told him so. My mother bought a computer to help her in her work. She let me use it to write programs and play games.

My father had a computer, too. He's very good with math, and he can fix almost anything, including a computer.

That's where it started. I got stuck on a program, and he was helping me on the phone. He told me things to try. Nothing worked.

Then he got an idea of what I could do with a wire on the back of the computer. Luckily, my mother had a rule in our house that she made me write out and put on the refrigerator door. It says: "If you have a great idea **DON'T DO IT! THINK!**"

So I said, "Papa, why don't you try it on YOUR computer?" and he laughed and said, "No way!"

Then I knew it was a trick. I was proud of myself for figuring it out. So, I told my mother. I thought she would be glad I had outgrown being tricked.

She was **ANGRY!** Not at me, she said. Even though her voice was very, very angry, I could tell it wasn't at me. But it hurt me anyway, because it hurts when someone you love is mad at someone else you love.

"What if you hadn't known enough to say NO to him?" she yelled. "Do you realize I could have been left with a ruined computer because of that? Then how could I have done my work?"

"Of course, I know that," I said. (I did not yell.) "That's what I'm telling you. I didn't get tricked. I thought you'd be happy."

"I **AM** happy," she hollered. "It's not enough he messes me up and messes you up, now he's attacking my computer! It's too much."

The next time I was at his house, I talked to him about the situation. I said I thought it was wrong for him to give me bad advice on purpose that could hurt my mother's business. And he talked to me for a long time about my mother being paranoid. He said his advice only **MIGHT** have broken her computer, so he wasn't purposely hurting anything. He reminded me he had given me a choice.

I just wanted peace.

"What's paranoid?" I asked my mother. Of course, I had heard the word before. In school, we were always calling each other "paranoid." It's a common expression.

"You ate my candy!" a kid would say.

"You're paranoid!" the other kid would say.

It's a way of not answering a question.

But my father's "paranoid" was worse.

My mother took me to a mental health clinic right away. She said my father was ruining my mental health along with hers.

Because of the computer, I had to talk to a psychiatrist to find out if I'm crazy! He said my father is bad for me. After that, they stopped letting us visit.

Then my father told me he was going to sue my mother.

Then I stopped the suit, saying it would make me hate him.

He said, "In that case, I'll talk to the shrink and tell him I am enraged."

"I don't think you should say 'enraged,' Papa. If you say that, he might decide **YOU** are

crazy. They don't mind if you say 'angry,' but they don't like 'enraged'."

He said, "O.K. I'll just tell him whatever he wants to hear so we can get this over with, but your mother is going to suffer for this."

"You won't tell that to the psychiatrist?"

"No."

Then he talked to the psychiatrist, and they agreed we would see the psychiatrist and a social worker to see if we could visit at his house again.

My mother was better after that. She said, "Now somebody knows what is happening. Now we can get you out of the middle."

My father made my mother pay for all the sessions. He said he shouldn't have to pay for her nonsense.

Now comes the bad part. My mother talked to the social worker by herself. Then the social worker kept me company while my mother told me I had been kidnapped by my father when I was too little to know what was happening.

It wasn't official kidnapping with the police. He would take me away. And while I was having fun on the swings and slides, he would telephone my mother and say, "I've got her and I'm keeping her until you accept my separation agreement." And she wouldn't know where I was. Until finally his lawyer made him stop.

The social worker said I had to know, because now my father was threatening my mother again that he would take me away.

We had to have a lot of sessions about this. I HATED it! Didn't they know how much it hurt me to hear that? I believed what they said, especially after they made my father admit it to me.

I had to have defense instructions. My mother said both parents have the right to know where their child is at all times. She said if I ever thought my father didn't know where I was, I should call and tell him. She gave me all his work telephone numbers. She said she expected the same thing of me towards her.

Then there was the problem of the passport. My mother was holding my passport because of the threats. She didn't want my father to get another one. She said, "If he takes you anyplace to have your picture taken, I want to know right away."

I said, "Of course. I think I've already proven I'm smart. I know better than that." But

then I thought of something, and I guess I looked funny.

"What is it?" she asked.

I remembered the computer trouble. I didn't want camera trouble, too. So I didn't tell her. But this is what I thought of.

On one of my visits to my father, he asked me to put on a plain sweater. And I had to comb my hair, which he almost never makes me do unless he's taking me to his office. And then he took my picture against a white wall.

I thought it was strange. "Why do you want to take my picture like this?" I asked.

"I just want a candid shot," he said. "Now don't grin."

When she saw I wasn't going to say anything, my mother and the social worker explained that, lucky for me, I am now too old to be snatched without my cooperation.

They said if I ever got taken to an airport unexpectedly, I should tell Security. The police would have an investigation, and I would probably be saved. If not, call my mother.

They sounded sure. After many months, the clinic said I could be with my father again at his house.

His suitcase was already packed when I got there. He explained that we were going back to France to see the places I had been when I was a young child. Where we were happy before my mother got the divorce. He said I didn't have to go if I didn't want to.

If I didn't go, I would never see him again in my life.

I didn't want to take the chance.

I didn't tell Security at the airport. I was afraid my father would get so mad he would say I'm a discipline problem, and I would get into trouble. Or he could go to jail.

I never called my mother. She would be mad that I didn't do what she told me. But I still miss her, and it's been a year now.

And that's the story of how I lost my mother.

### III. The Psychologist by Millie Niss (at age 12) \*

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They walked into his office like a happily divorced family. An observer used to married families would have noticed the angry way the parents were glaring at each other, but for a divorced family, they were uncommonly peaceful.

The child walked in with an air of suspicion. She'd seen it all before. She remembered the many first interviews. The new therapist would seem eager, ambitious, original, ready to do anything to help, and then would finish by giving the same dumb advice. She knew it by heart. To her father, the shrink would say that increased visitation was the answer. To her mother, it would be increased child support. And to her, the shrink would have the nerve to say, "Stay out of the middle."

The parents, however, didn't give a thought to what the shrink would do. Their only concern was about who would pay him.

The psychologist welcomed them into his office. Warmly, he introduced himself to "Mr. and Mrs. Meyer."

Dr. Callow, the mother, gulped. She hadn't used her ex-husband's name in five years.

"And hello, Iona," said the psychologist as he turned to the kid.

"Glad to meet you, Harold," replied Iona in the same friendly tone.

Both parents turned to Iona to scold her at the same moment. Neither of them actually did scold her. Dr. Callow, because she was angry at the use of her married name and the omission of her

title. Mr. Meyer, because he had seen Iona's mother begin to scold, and he'd be damned if he'd do the same thing as *that* woman.

The interview was not off to a good start.

"So, you've come to me to help work out a little custody dispute," said the psychologist, trying to start with a neutral question.

Simultaneously, Dr. Callow said "Yes" and Mr. Meyer angrily replied that it was a court-ordered evaluation with only one purpose, which was to send the judge a report.

"Well, let's put it another way: You're having trouble."

The mother said "Yes" and the father, naturally, said, "No."

Deciding that introductory niceties were a waste of time with this couple, the psychologist immediately began asking about their marriage.

They couldn't agree on how long they had been married, much less anything else.

The shrink turned to Iona, asking right away whether she would rather live with her mother or her father. She told him to go screw himself. It was really the best answer she could have given under the circumstances.

He next asked her whether she liked Buffalo or New York better. She had no trouble saying New York. Her father's face lit up with a flash of pleasure. He told the mother she would never see her daughter again. She said that was a threat and she'd sue him for harassment. He told her it didn't matter anyway because he could hire a better

\* Millie Niss works as a systems manager at Brown University, where she is a Ph.D. student in mathematics. She has written for *The New York Times*, *Friends Journal*, *The Buffalo News* and *Springer-Verlag Lecture Notes in Mathematics*. She has a B.A. from Columbia University.

lawyer than she could.

She threatened to tell the local chapter of the American Bar Association about him. He asked now who's threatening.

The psychologist watched passively as their shouting turned to physical violence. He only tried to stop them when it appeared that the father might break his antique paperweight.

The shrink calmed them down enough so that he could continue questioning Iona.

"How do you feel about what just happened?" he asked, finishing with a silent, but obvious, "little girl."

"That's a dumb question," she answered.

For once, both of Iona's parents agreed.

"You say that's a dumb question," the psychologist automatically repeated.

"Yes."

"Can you tell me how it makes you feel to see your parents fight like that?"

"Normal," Iona replied in all honesty.

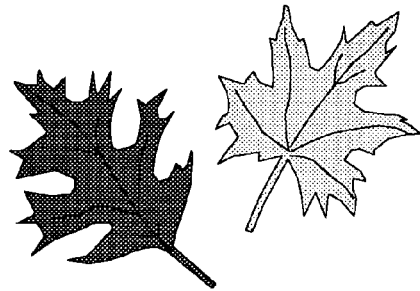
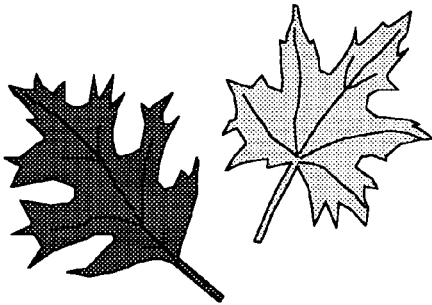
Turning to the parents, the shrink said that Iona had a severe attitude problem, and would need intensive therapy, which would, of course, be paid for by the mother, since she was a doctor and presumably made over a hundred thousand a year.

Dr. Callow replied drily that she was unemployed.

The psychologist told her that's what happens when women leave the kitchen and intrude into the man's world.

Mr. Meyer looked at his watch and said the session should be about over.

"Not quite," replied the psychologist. "There's still the fee to be paid."





## Comment

by Martha L. Deed, Ph.D.

*A Custody Triptych* attempts to capture a child's eye view of custody fights and parental abductions. To a child, custody struggles do not simply occur in the courtroom, but everywhere in a child's life, at home and in school.

The parent in *Courtroom Lawyer* is seen as controlling the courtroom as completely as he controls his family. The parent litigant in this child's drawing overwhelms the courtroom; even the judge shrinks when the parent speaks. While the drawing depicts the judge's words as powerful, nevertheless, the judge is viewed as the parent's tool. The mother is nowhere to be found in the drawings. She is not an actor, and is present only through the words of the other parent.

Yet, this is not a negative picture drawn by a child who dislikes either parent. The hostility is between the parents, not between parent and child. Children almost always love both parents no matter how destructive their behavior.

*In the Best Interests of the Child* illustrates the difficulty in balancing the child's need to visit a parent against the child's safety. A child's love for a parent does not mean the child should have unlimited access to a parent who is found to be a danger to the child, or to the other parent. While the child's love of the parent needs to be understood and taken into account, safety should be the primary concern. Thus, access arrangements should minimize opportunities for the parent to use the child's genuine love as a means of manipulation.

This piece also raises the issue of parental abduction. In the case of any abduction, especially an international abduction, only a parent with abundant financial resources would be able to find and retrieve the child. By then, the damage to the parents and child would have already occurred. A parent must be held accountable for all of his or her actions. When the legal system does not respond to an initial temporary disappearance, the abductor may be emboldened to undertake a permanent disappearance.

Parental abduction of children who are the subjects of custody disputes is an all too common problem. Many of us know a parent or child who has suffered grievously by a custody dispute and/or parental abduction. In the past twenty years, I have been the aunt of a child who disappeared in the late 1970s and has not been seen again by his father. I have been the mother of a nursery school child who came home crying and panicky on a day that the teachers prevented an attempted abduction in front of all the children. The child, one of my daughter's best friends, was taken on another day. In middle school, another friend disappeared after confessing to some girls that she had been abducted two years earlier.

*The Psychologist* illustrates the loss of privacy experienced by all family members during custody disputes. When this story is read to mental health audiences, the clumsiness and arrogance of this forensic expert causes uneasy laughter and provokes intense discussion of mental health forensic expert roles. The helplessness of all family members is underscored by the fact that mental health experts wield nearly unlimited discretionary power in these cases. If the evaluation is performed poorly or undermines remaining family bonds, family members have no legal remedy. The court-appointed mental health expert is protected by immunity.

In my practice as a psychologist, I have found that the psychological damage of abducted children, and the adults they later become, is predictable and nearly universal. They have a wariness and tension born of losing a parent because of another parent's act. They have learned that with love does not always come trust. Trust, it seems, may be lost because of love.